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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/159,104	09/23/1998	FUMIO DENDA	981091	4736

23850 7590 06/04/2003

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EXAMINER

PENDLETON, BRIAN T

ART UNIT

PAPER NUMBER

2644

DATE MAILED: 06/04/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/159,104	DENDA, FUMIO	
	Examiner Brian T. Pendleton	Art Unit 2644	
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>			
Period for Reply			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.			
<ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 			
Status			
1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>26 March 2003</u> .			
2a) <input type="checkbox"/> This action is FINAL .		2b) <input checked="" type="checkbox"/> This action is non-final.	
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.			
Disposition of Claims			
4) <input checked="" type="checkbox"/> Claim(s) <u>1,3-10 and 12-21</u> is/are pending in the application.			
4a) Of the above claim(s) _____ is/are withdrawn from consideration.			
5) <input type="checkbox"/> Claim(s) _____ is/are allowed.			
6) <input type="checkbox"/> Claim(s) _____ is/are rejected.			
7) <input type="checkbox"/> Claim(s) _____ is/are objected to.			
8) <input checked="" type="checkbox"/> Claim(s) <u>1,3-10 and 12-21</u> are subject to restriction and/or election requirement.			
Application Papers			
9) <input type="checkbox"/> The specification is objected to by the Examiner.			
10) <input type="checkbox"/> The drawing(s) filed on _____ is/are: a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).			
11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.			
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.			
Priority under 35 U.S.C. §§ 119 and 120			
13) <input checked="" type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).			
a) <input checked="" type="checkbox"/> All b) <input type="checkbox"/> Some * c) <input type="checkbox"/> None of: 1. <input checked="" type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.			
14) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.			
15) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.			
Attachment(s)			
1) <input type="checkbox"/> Notice of References Cited (PTO-892)		4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .	
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)		5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)	
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .		6) <input type="checkbox"/> Other: _____ .	

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1, 3-10, 12-21 have been considered but are moot in view of the new restriction requirement.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1, 3, 4, 16 and 17, drawn to an auditory sense training method alternating between a region attenuated processed sound and original sound, classified in class 434, subclass 185.
- II. Claims 5-7, 18 and 19 drawn to an auditory sense training method having an amplitude attenuated processed sound and superimposed sound, classified in class 434, subclass 185.
- III. Claims 8-9 and 14-15, drawn to an auditory sense training method having phase reversed sound, classified in class 434, subclass 185.
- IV. Claims 10, 12, 13, 20 and 21, drawn to an auditory sense training method having an amplitude attenuated sound and original sound, classified in class 434, subclass 185.

The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, III and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different

Art Unit: 2644

modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions and different effects. Invention I is directed to alternating processed and original sound. This has a different function from invention II which is directed to a method which utilizes multiple channels, one channel having a processed sound and the other channel having the processed sound superimposed on the original sound. Invention III yet has a distinct function which has phase reverberated sound alternated with the original sound. Lastly, invention IV is directed to alternating between an amplitude attenuated sound superimposed on the original sound and the original sound. Inventions II and IV have different functions and modes of operation because invention II requires two channels of sound.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups II, III and IV, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian T. Pendleton whose telephone number is (703) 305-9509. The examiner can normally be reached on M-F 7-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on (703) 305-4386. The fax phone

Art Unit: 2644

number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.



Brian Tyrone Pendleton
May 30, 2003



FORESTER W. ISEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2630